

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2010-491

13 **MYRNA MARUCUT MENDOZA**
173 Naglee Avenue
14 San Francisco, CA 94112
Registered Nurse License No. 457746

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 31, 1990, the Board of Registered Nursing issued Registered
23 Nurse License Number 457746 to Myrna Marucut Mendoza ("Respondent"). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on June 30, 2010, unless renewed.

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"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

"(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

"(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

"(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

STATEMENT OF FACTS

10. Respondent at all relevant dates was a Registered Nurse, employed at California Pacific Medical Center ("CPMC") in San Francisco, California. She was assigned to the skilled nursing unit at CPMC.

11. On June 14, 2007, patient A.L. ("A.L.") was admitted to CPMC. She was 74-years-old and in 1999, had been diagnosed with gastrointestinal cancer. The cancer had spread to her

1 liver and bones thus necessitating admission to the hospital. As A.L.'s condition was terminal,
2 she and her family opted for palliative (comfort) care while waiting for opening of a bed at a
3 hospice facility.

4 12. On June 14, 2007, the physician orders for A.L. noted the following plan: "Patient
5 will experience minimal suffering or loss of control." Nurses assigned to care for A.L. were
6 directed to: (1) "Assess patient's pain level using 0-10 pain scale;¹ (2) Give meds as
7 appropriate/ord[ered] by MD and eval[uate] effectiveness; and (3) Give pain meds around-the-
8 clock; prn meds for break thru (sic) pain."

9 13. The orders for pain medication for A.L. on June 21, 2007, included: Morphine
10 Sulfate Liquid Concentrate ("Roxanol") 10 mg prn pain, which could be administered
11 sublingually (under the tongue). For break through pain, i.e., pain not relieved by the Roxanol,
12 A.L.'s physician ordered Morphine Sulfate 2 mg to be given intravenously every hour.

13 14. A.L.'s hospitalization at CPMC was complicated by a swelling in her left jaw. This
14 made swallowing very painful and thus she was unable to take oral [pill] pain medications.

15 15. Up until the morning of June 21, 2007, A.L.'s pain had been well-controlled. Family
16 members present at her bedside reported that the intravenous administration of Morphine Sulfate
17 every four hours had kept A.L. comfortable.

18 16. Respondent assumed care of A.L. on the morning of June 21, 2007. Her last
19 Morphine Sulfate dose was at 4:00 a.m., and by 8:00 a.m., A.L.'s family anticipated that she
20 would again be medicated. When no medication was given, the family was advised by
21 Respondent that pain medication was only administered on an "as-needed basis" and since A.L.
22 did not request pain relief, none would be given. The family advised Respondent that A.L. was
23 incapable of talking due to the pain in her left jaw and that her moaning and/or screaming was
24 indicative of her need for pain medication.

25 ¹ Per the nursing protocols at CPMC, pain is considered to be the "5th vital sign." CPMC
26 "patients can expect to have their pain assessed and re-assessed on a regular basis" and "be
27 treated for pain in an effective manner." Clinicians are expected to "use a standardized scale for
28 evaluation of pain, such as the 0-10 [0 = no pain; 2-3 = mild pain; 4-6 = moderate pain; and 7-10
= severe pain], or faces scaled to measure the intensity of pain. Patients unable to communicate
will be assessed using behavioral signs."

17. On June 21, 2007, Respondent noted that she was "unable to assess pain" with no reason given for her inability to evaluate A.L.'s pain. However, at 11:00 a.m., at 12:30 p.m., and 2:45 p.m., Respondent medicated A.L. with 2 mg of Morphine Sulfate. No reference was made by Respondent as to A.L.'s pain level (and area of pain) prior to administration of this medication and no reference was made as whether it had been effective in controlling A.L.'s pain.

18. At approximately 3:55 p.m., on June 21, 2007, A.L. was placed on a pump which delivered a continuous infusion of 1 mg of Morphine Sulfate per hour. She expired on the morning of June 22, 2007.

FIRST CAUSE FOR DISCIPLINE

(Incompetence-Failure to Assess Pain)

19. Respondent is subject to disciplinary action under Code section 2761(a)(1) in that her failure to assess the pain level of A.L. was not the practice of a competent nurse within the meaning of California Code of Regulations, title 16, section 1443, as set forth above in paragraphs 11 through 17, above.

SECOND CAUSE FOR DISCIPLINE

(Incompetence-Failure to Timely Administer Pain Medications)

20. Respondent is subject to disciplinary action under Code section 2761(a)(1) in that her failure to timely administer pain medication to A.L., who was in the terminal stages of cancer, was not the practice of a competent nurse within the meaning of California Code of Regulations, title 16, section 1443, as set forth in paragraphs 11 through 17, above.

THIRD CAUSE FOR DISCIPLINE

(Incompetence-Failure to Document Effectiveness of Pain Medication)

20. Respondent is subject to disciplinary action under Code section 2761(a)(1) in that once she gave A.L. pain medication, she failed to document whether or not the administered medication was effective in relieving A.L.'s level of pain. Such conduct was not the practice of a competent nurse within the meaning of California Code of Regulations, title 16, section 1443, as set forth in paragraphs 11 through 17, above.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number RN 457746, issued to
5 Myrna Marucut Mendoza;

6 2. Ordering Myrna Marucut Mendoza to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: 4/6/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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